

June 22, 2005

TO THE HONORABLE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

In accordance with Article IX of the Rhode Island Constitution and the provisions of Rhode Island General Laws 43-1-4, I am transmitting herewith, with my disapproval, 2005-H 6099 Substitute A as amended, “An Act Relating to Human Services—Authorizing Providers to Negotiate Jointly with the Departments of Human Services and Children Youth and Families.”

This bill is an unmitigated legal and financial disaster for both the taxpayers of Rhode Island and our state’s child care system. This bill is not a compromise as its proponents suggest. Nor is it simply about giving home-based child care workers a voice. This bill is the Trojan Horse of the effort by organized labor to swell its ranks in the public sector as its ranks in the private sector diminish. Home-based child care providers are independent for-profit businesses. This bill will make at least 1,300 home-based child care providers, and possibly thousands more, state employees in all but name.

The reasons I must veto this bill are many. The bill is rife with flaws woven together in a complex web of legal, financial, and policy errors.

At the heart of this effort is a legal contradiction that is both its fatal flaw and a signal of its true purpose. On the one hand, its proponents claim that the bill is not designed to transform home-based child care providers into state employees. Yet on the other hand, the bill grants to those providers the right to collectively bargain with the state. Taken together, these competing claims pervert fundamental principles of labor law. If these providers are not state employees, then we cannot grant them the power to collectively bargain with the state. Like all employers in the public and private sectors, the state bargains collectively only with its own employees. It then follows that if these providers have the right to bargain with the state, they will seek other benefits granted state employees, like state-paid family health care, pensions, and civil service protections.

My opposition to this bill is not because it creates a union, but because it creates a union of de facto state employees. Home-based child care providers are free to organize themselves to advocate for their interests however they choose, within the bounds of the law. But we should not grant them the rights of state employees, as this bill does. The bill contains this fig leaf: "Nothing in this chapter shall be construed to make family child care providers employees of the state for any purpose, including, but not limited to, eligibility for a state pension." This sentence provides the taxpayers with little protection. The drafters of this bill know well that a court of law might rule that these providers are state employees because of a combination of factors, including new benefits negotiated by this proposed union.

Should this bill become law, it will only be the first step. This bill will serve as a template for organized labor. National labor leaders have made clear their intentions to unionize child care providers, nursing home workers, and other providers of social and health services. This is a proper goal as long as this effort does not convert private service providers into public employees. When it does, taxpayers suffer the added costs. This is a dangerous precedent.

My administration estimates the potential taxpayer costs of this legislation to be \$10 million in increased financial benefits for the home-based child care providers. If other groups of providers who receive funding through the state follow the lead of these child care providers, the costs to Rhode Islanders will skyrocket much further. Taxpayers simply cannot bear these increased costs.

These new costs are particularly onerous when heaped onto a program that has already grown from \$31.4 million to \$80.5 million in six years. This cost reflects the generosity of Rhode Islanders in extending child care subsidies to many families. In fact, Rhode Island is the only state that provides child care subsidies as an entitlement to income-eligible families. Our program is among the most generous and costly in the nation.

This generosity extends to the home-based child care providers as well as to participating families. Provider reimbursements in Rhode Island exceed those paid by Massachusetts and Connecticut in their child care programs. Indeed, some home-based providers receive in excess of \$90,000 in reimbursement from the taxpayers annually. On top of that, all providers who care for the equivalent of one child in a twelve month period are eligible for free health care benefits. These providers make no premium co-share payments for this benefit, unlike the vast majority of Rhode Islanders who pay a portion of their health care premiums. Even participants in the state's Rite Care program pay a portion of their health care premiums. We cannot ask the taxpayers to shoulder even more costs.

Nor should the children of Rhode Island be the pawns in organized labor's attempt to generate more dues-paying members. This bill will weaken our state's child care system. The operators of Rhode Island's licensed child care centers, where approximately seventy percent of children in child care are served, are vehemently opposed to this bill for this reason. As the collective bargaining process drives up the costs of the program, it will threaten the taxpayers' ability to sustain the program. Cuts to eligibility levels or increased family co-payments will likely be on the table as state policymakers search for ways to make the program affordable.

It is also indefensible to cede to the collective bargaining process important state policy decisions, as this bill attempts to do. The provisions of the state's child care program are matters for the people's elected representatives to decide. The program ought not to be relegated to a mere bargaining chip to be used by for-profit businesses in their financial negotiations. Nor is the State Labor Relations Board the proper venue for deciding matters of children's' health and welfare.

A final concern is the detrimental impact this bill will have on Rhode Islanders who pay for licensed child care services, but who do not participate in the state's subsidized program. They will pay more for child care should this bill become law. As the unionized providers drive up reimbursement rates from the state, private rates will follow. Many providers care for both subsidized and unsubsidized children. Market dynamics dictate that one rate will follow the other.

This bill is bad policy. It is unfair to taxpayers. It sinks the state into a legal quagmire. It opens the door to unknown financial risks. And, most importantly, it harms the state's child care system. I cannot allow the creation of a union of de facto state employees to erode our current child care successes. For these reasons, I disapprove of this legislation and respectfully urge your support of this veto.

Sincerely,

Donald L. Carcieri
Governor